UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 MAR 12 AM 10: 32

UNITED STATES OF AMERICA, Plaintiff,	)	Magistrate Case No. '08 MJ 0790
v.	)	COMPLAINT FOR VIOLATION OF:
Def 1) Juan MENDEZ-Sanchez, **Def 2) Daniel SOTO-Penaloza** Defendant(s)	)	Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii) Transportation of Illegal Aliens

The undersigned complainant, being duly sworn, states:

On or about **March 10, 2008,** within the Southern District of California, defendants **Juan MENDEZ-Sanchez** and **Daniel SOTO-Penaloza** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Bernardino GRIJALVA-Mendoza and Leticia VELASQUEZ-Fosado** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 12th DAY OF **MARCH 2008**

Louisa S. Porter
UNITED STATES MAGISTRATE JUDGE

G-V

CONTINUATION OF COMPLAINT:
Def 1) Juan MENDEZ-Sanchez
Def 2) Daniel SOTO-Penaloza

PROBABLE CAUSE STATEMENT

The complainant states that **Bernardino GRIJALVA-Mendoza and Leticia VELASQUEZ-Fosado** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On March 10, 2008, at approximately 1:15 p.m., Senior Patrol Agent S. Bell was patrolling northbound I-15 near Gopher Springs Road, near Escondido, California, in a marked service vehicle. The I-15 freeway northbound is a route commonly used by alien smugglers and drug smugglers.

Agent Bell observed a gold 2001 Toyota Avalon four door sedan with a blacked out rear window and the rear door windows also deeply tinted. Agent Bell was northbound in the number one (fast or passing) lane and noticed as he pulled alongside that the driver was seated rather stiffly. Agent Bell slowed his vehicle and paced the Toyota just slightly forward of the drivers window. Agent Bell still had a good view of the driver, and he of Agent Bell. The driver looked over at Agent Bell and then quickly looked away in a surprised manner. In Agent Bell's many years of experience, the initial reaction of the driver reminded Agent Bell of the reaction of other smugglers the agent has arrested in the past. Agent Bell continued to pace the driver to observe his and the passenger's behavior. Agent Bell noticed the driver's lips moving, as if saying something to the passenger, but he did not look over at the passenger. From this point the driver did not look over at Agent Bell anymore. In Agent Bell's experience most people will glance over at a marked law enforcement vehicle when it is driving alongside of their vehicle as conspicuously and purposely as Agent Bell was with this vehicle. The driver continued to sit stiffly in the seat, staring straight ahead.

Agent Bell was also able to see the passenger in the right front seat. He was staring straight ahead, not looking to the left or right or talking to anyone. Agent Bell dropped back behind the vehicle to gather further observations. He noticed the driver look in his rear view mirror continually as if to determine where Agent Bell was. Because of this, the suspect's vehicle veered from side to side. Often time's smugglers will pay more attention to the marked service vehicle than the road, for fear of being apprehended. Agent Bell then pulled up on the right side of the Toyota to observe the passenger and again paced the vehicle, just slightly ahead of the passengers' window. Agent Bell looked down in the vehicle and could see the passenger staring straight ahead and not look Agent Bell's direction. In Agent Bell's experience this is also a common behavior of individuals fearing the presence of Border Patrol Agents. Not wanting to be apprehended they appear not to notice the agents. During the time Agent Bell was following the vehicle, it slowed and accelerated repeatedly. This is also a common behavior of alien smugglers because of the fear of the eminent fear of possibly being apprehended. Agent Bell also noticed that the vehicle was riding lower in the rear and bouncing as if there was more weight in the vehicle than was appearing. Agent Bell was only able to see two occupants in the vehicle and this was suspicious to the agent as the condition of the vehicle indicated there was more weight than was visible.

Agent Bell was still unable to see into the rear of the vehicle. Alien smugglers will often tint the rear windows to hide any evidence of their illegal activities. It should be noted that the I-15 checkpoint was non operational at the time this occurred. During these times the agent has noticed an increase of alien smuggling because there is a less likely chance of being apprehended.

CONTINUATION OF COMPLAINT:
Def 1) Juan MENDEZ-Sanchez
Def 2) Daniel SOTO-Penaloza

Due to all these aforementioned facts Agent Bell decided to activate his emergency lights and stop the vehicle to perform an immigration inspection. The driver did not respond at first so Agent Bell intermittently activated his siren. There was no indication that the vehicle was attempting to stop and Agent Bell then turned the siren on full. There was still no response. Agent Bell then notified the I-15 checkpoint radio that he had a failure to yield. The subject proceeded to travel approximately another mile and Agent Haefeli advised Agent Bell to discontinue pursuit and go to a surveillance mode. Agent Bell deactivated all lights and siren and dropped back, following the vehicle and keeping it in sight.

Border Patrol Agents assigned to the San Diego Sector Smuggling Interdiction Group, North (SIG North) copied over the radio that a failure to yield was in progress. SIG North agents responded to the last known location that the gold Avalon was traveling. Agents T. Shigg and S. Gandre, who were both riding in one vehicle, merged onto the I-15 freeway and were notified that the FTY vehicle was approximately one mile behind them. Agents Gonzalez and Hays were traveling north bound on the I-15 freeway and were in a position to follow the vehicle. Agent E. Dominguez, a K-9 handler with a vehicle equipped with emergency lights, sirens and a steady red light activated his emergency equipment and attempted to perform a vehicle stop. Upon activating his emergency equipment, the driver of the gold Avalon yielded and stopped on the center median of the highway. Agents Shigg and Gandre noticed that the vehicle was yielding and pulled over to the center median, a short distance ahead of the Avalon. All four Agents approached the vehicle and identified themselves as United States Border Patrol Agents. Four individuals were discovered in the vehicle. At approximately 1:45 PM all four occupants of the vehicle were arrested without incident. All individuals in the above mentioned vehicle were questioned as to their citizenship and immigration status and none were in possession of immigration documents allowing them to be in or enter the United States legally.

MATERIAL WITNESSES STATEMENTS:

Material witnesses Bernardino GRIJALVA-Mendoza and Leticia VELASQUEZ-Fosado freely stated under oath they both did not have any immigration documents to be in or enter the United States legally. Both individuals also freely stated that they illegally crossed the U.S. / Mexico international border. Both subjects were able to identify both defendants as both the driver and passenger of the Toyota Avalon they were apprehended in on March 10, 2008. Both subjects stated when the passenger told the driver the Border Patrol was following them the driver told them they were only going to be detained.